

Docket: P910351

**REMARKS**

Claims 14-23 have been cancelled. Claims 1-13 are presently pending in the application.

The Office Action rejected claims 1 and 5-12 under 35 U.S.C. 102(e) as being anticipated by Kobayashi et al. (U.S. Patent No. 6,797,566), and rejected claims 2-4 under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. as applied to claim 1 and further in view of Tsui et al. (U.S. Patent No. 6,208,030). Applicants respectfully traverse these rejections.

Regarding the rejection of independent claim 1 as being anticipated by Kobayashi et al. it is known that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (Emphasis added; Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Thus, for a rejection under 35 U.S.C. 102(e) to be proper, every limitation recited in a claim, which is rejected as being anticipated by a prior-art reference, must be clearly disclosed in that single prior-art reference. In the instant case, Applicants respectfully submit that the cited Kobayashi et al. reference does not disclose each and every element of rejected claim 1, and, therefore, the cited Kobayashi et al. reference does not anticipate the presently pending claims under 35 U.S.C. § 102(e).

More particularly, applying the above standard, Kobayashi et al. does not disclose a method for forming at least one non-volatile memory cell including, among other things, "forming a first oxide layer, an electron trapping layer, a second oxide layer, a first electrically conductive layer, and a dielectric layer on a surface of a substrate in that order; patterning ... thereby forming at least one component stack; depositing a third oxide layer ... ; removing a portion of an upper section ... such that an upper portion of the dielectric layer is exposed through the third oxide layer; removing ... such that an elevation of an upper surface of the third oxide layer above the surface of the substrate is substantially equal to an elevation of an upper surface of the patterned first electrically conductive layer; and forming a second electrically conductive layer over upper surfaces of the patterned first electrically conductive layer and the third oxide layer," as recited in independent claim 1.

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For instance, regarding the very first paragraph of the body of claim 1, Applicants' claimed first oxide and electron trapping layer do not correspond to the well 201 and nitrogen-induced silicon oxide film 206 of Kobayashi et al. The Kobayashi et al. well 201 is not an oxide but rather is a "p-type (first conduction type) well 201" as stated in column 7, lines 61-65 of Kobayashi et al., and the nitrogen-induced silicon oxide film 206 is intrinsically an oxide (cf. column 8, lines 36- 40 of Kobayashi et al.) that cannot trap electrons. One example of an electron trapping layer can be found on page 7, lines 24-26 of Applicants' specification, which states that "[t]o store data, electrons are trapped in the nitride layer 24 of the ONO structure" and that "[t]he nitride layer is electrically isolated by the oxide layers 22 and 26." Thus, it is respectfully submitted that the rejection of claim 1 is without merit. Applicants further submit that the remaining claims 2-13 distinguish over the prior art of record at least because of their dependencies on claim 1. Accordingly, independent claim 1 and dependent claims 2-13 patentably distinguish over the prior art of record.

Regarding the above-mentioned prior-art rejections, Applicants would like to thank Examiner Laura M. Schillinger for the oral correspondence conducted with Applicants' representative, Kenton R. Mullins, on May 6, 2005, at which time it was indicated by Examiner Schillinger that, subject her review of the cited references, independent claim 1 would appear to distinguish over the cited prior art of record. Examiner Schillinger, however, reserved the right to conduct a review of the application, the outstanding rejections and the cited prior art, and, furthermore, to conduct an update search, before committing to any position and before agreeing absolutely to withdraw any of the present prior-art rejections. Applicants respectfully request that such review be conducted and that, following completion of the review, the outstanding rejections of record under 35 U.S.C. 102 and 103 be reconsidered and withdrawn.

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In view of the above, Applicants submit that the application is now in condition for allowance, and an early indication of the same is requested. The Examiner is invited to contact the undersigned with any questions.

Respectfully submitted,



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